

Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 OPIC-06 AID-05 EB-07 TRSE-00 COME-00
L-03 CIAE-00 INR-07 NSAE-00 HUD-02 /041 W
-----041813Z 130142 /50
R 031608Z MAY 77
FM AMEMBASSY SAN JOSE
TO SECSTATE WASHDC 7221
INFO AMEMBASSY GUATEMALA
AMEMBASSY TEGUCIGALPA

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TEGUCIGALPA FOR AID/HIG

GUATEMALA FOR ROCAP

E.O. 11652: N/A
TAGS: EINV, EFIN, CS
SUBJECT: OPIC: POLITICAL RISK INSURANCE APPLICATION OF MORTON B.
TURBOW (PRF INTERNATIONAL CORP.)

1. SUMMARY. OPIC INFORMALLY HAS REFERRED TO THIS EMBASSY FOR COMMENT A NEW SET OF DOCUMENTATION RELATING TO THE APPLICATION OF MORTON B. TURBOW FOR POLITICAL RISK INSURANCE TO COVER BONDS TO BE ISSUED BY A GOVERNMENT-OWNED BANK IN COSTA RICA FOR THE PURPOSE OF FINANCING MIDDLE-INCOME HOUSING. THE EMBASSY HAD PREVIOUSLY RECOMMENDED AGAINST THIS PROJECT, BUT HAD OFFERED TO STUDY ANY NEW DOCUMENTATION OR INFORMATION THAT OPIC MIGHT PRESENT. THE NEW DOCUMENTATION IS HELPFUL, BUT INCOMPLETE. THIS MESSAGE IDENTIFIES ADDITIONAL INFORMATION NEEDED BEFORE DEFINITIVE EMBASSY COMMENTS CAN BE OFFERED. OF PARTICULAR INTEREST TO EMBASSY IS ASSURANCE THAT IMPLICATIONS OF USG GUARANTEE OF FOREIGN GOVERNMENT BONDS HAVE BEEN STUDIED AND APPROVED BY APPROPRIATE USG AGENCIES SUCH AS STATE AND TREASURY. THIS IS IMPORTANT BECAUSE PROJECT ORGANIZERS CLEARLY
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HOPE TO REPLICATE THIS PROJECT IN OTHER COUNTRIES, EVENTUALLY MOVING \$500 MILLION ABROAD, UNDER USG GUARANTEE, FOR HOME CONSTRUCTION FINANCING. END SUMMARY.

2. POLICY LEVEL APPROVAL IN WASHINGTON - THE TURBOW PROJECT IS DESCRIBED BY ITS SPONSORS AS THE PROTOTYPE FOR A SERIES OF SIMILAR PROJECTS UNDER WHICH SOME

\$500 MILLION IN U.S. FUNDS, GUARANTEED BY THE AFG, WOULD MOVE ABROAD FOR THE FINANCING OF MIDDLE-INCOME HOUSING.

MOREOVER, THE CONCEPT INVOLVES A USG FULL FAITH AND CREDIT GUARANTEE OF BONDS ISSUED BY A FOREIGN GOVERNMENT ENTITY. THERE WOULD APPEAR TO BE POLICY IMPLICATIONS HERE THAT GO WAY BEYOND THE US-COSTA RICAN RELATIONSHIP AND WHICH MERIT STUDY AND ANALYSIS BY APPROPRIATE OFFICES AND AGENCIES OF THE USG (E.G., ARA, EB, L, TREASURY). WE HAVE URGED BEFORE THAT THE CONCEPT OF THIS PROJECT BE APPROVED BY THE APPROPRIATE AGENCIES IN WASHINGTON IN ORDER THAT WE MAY HAVE A POLICY FRAMEWORK WITHIN WHICH TO JUDGE THE PROJECT'S SUITABILITY FOR COSTA RICA. WE MUST AGAIN REQUEST SUCH POLICY GUIDANCE.

3. OPIC MANDATE: EMBASSY WOULD ALSO LIKE TO RECEIVE SOME OFFICIAL ASSURANCE THAT OPIC IS BY LAW OR BY POLICY MANDATED TO INSURE FOREIGN GOVERNMENT OBLIGATIONS AS IN EFFECT WOULD BE THE CASE IN THIS PROJECT. THIS QUESTION HAS BEEN RAISED BEFORE BUT NOT ANSWERED. WHILE WE DO NOT PRESUME TO JUDGE WHETHER OPIC HAS AUTHORITY OR MANDATE TO INSURE SUCH OBLIGATIONS, WE THINK THE QUESTION IS REASONABLE AND NEEDS TO BE ANSWERED IN VIEW OF APPARENT STATEMENT TO THE CONTRARY ON PAGE 10 OF OPIC'S INCENTIVE HANDBOOK FOR INVESTMENT INSURANCE. THIS EMBASSY HAS ALREADY DEVOTED MUCH TIME AND EFFORT TO ANALYSIS AND CONSIDERATION OF VARIOUS VERSIONS OF THIS PROJECT WITHOUT CLEAR INDICATION THAT PROJECT DOES FALL WITHIN OPIC-MANDATED AREAS OF ACTIVITY. WE REQUEST SUCH A STATEMENT

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BEFORE PROCEEDING TO CONSIDER PROJECT ONCE AGAIN.

4. DEFINITION OF EXPROPRIATION - IN THIS PARTICULAR PROJECT, EXPROPRIATION APPARENTLY WOULD BE DEFINED AS "ANY DISCRIMINATORY FAILURE OF THE BORROWING INSTITUTION (THE GOVERNMENT-OWNED BANCO NACIONAL) TO MAKE A SCHEDULED REPAYMENT ON THE BONDS, FOLLOWED BY A DISCRIMINATORY FAILURE OF THE CENTRAL BANK....TO HONOR ITS GUARANTEE." THUS, FOR PURPOSES OF THIS PROJECT, EXPROPRIATION WOULD BE NON-PAYMENT BY THE GOVERNMENT RATHER THAN SEIZURE OF THE INSURED ENTERPRISE BY THE GOVERNMENT. MR. TURBOW HAS TOLD EMBASSY THAT THIS KIND OF GUARANTEE IS NECESSARY TO SUCCESSFUL MARKETING OF BONDS IN U.S. THAT MAY BE THE CASE, BUT WE WOULD LIKE TO HAVE OFFICIAL CONFIRMATION THAT USG ENDORSES THIS UNUSUAL CONCEPT AND DEFINITION OF EXPROPRIATION.

5. A CENTRAL BANK GUARANTEE - EVERY TURBOW APPLICATION HAS ALLEGED THAT THE CENTRAL BANK OF COSTA RICA WILL

GUARANTEE THE PROJECT, BUT NO EVIDENCE OF SUCH A GUARANTEE IS INCLUDED IN THE PROJECT DOCUMENTATION. THE LATEST APPLICATION INCLUDES A DRAFT OF AN UNCONDITIONAL GUARANTEE IN WHICH THE CENTRAL BANK WOULD PLEDGE THE FULL FAITH AND CREDIT OF THE COSTA RICAN GOVERNMENT TO THE BONDS TO BE ISSUED BY THE BANCO NACIONAL AND WOULD MAKE FULL PAYMENT UPON DEMAND TO THE US. BOND HOLDERS OF THE FULL PRINCIPAL SUM AND INTEREST DUE, IF THE BANCO NACIONAL SHOULD MISS OR BE LATE ON A PAYMENT. HOWEVER, THERE IS NO EVIDENCE THAT THE CENTRAL BANK HAS AGREED OR WOULD AGREE TO SIGN SUCH A GUARANTEE. EMBASSY'S POSITION IS THAT WITHOUT CLEAR EVIDENCE OF CENTRAL BANK'S POSITION, PROJECT APPLICATION IS INCOMPLETE AND THEREFORE CANNOT BE JUDGE DEFINITELY.

6. LIMITS ON THE VALUE OF HOUSES TO BE FINANCED - TO ASSURE THAT THE PROCEEDS ARE NOT UTILIZED TO FINANCE HIGH UNCLASSIFIED

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OR UPPER-MIDDLE INCOME HOUSING, THE PROJECT APPLICATION SHOULD SPECIFY AN UPPER LIMIT TO THE TOTAL VALUE OF THE HOUSING TO BE FINANCED. THE LIMIT SHOULD BE EXPRESSED IN TERMS OF THE MAXIMUM TOTAL VALUE OF THE HOUSE, OR HOUSE AND LOT, TO BE FINANCED, NOT IN TERMS OF THE SIZE OF THE

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ACTION ARA-10

INFO OCT-01 ISO-00 OPIC-06 AID-05 EB-07 TRSE-00 COME-00
L-03 CIAE-00 INR-07 NSAE-00 HUD-02 /041 W
-----041812Z 119455 /50

R 031608Z MAY 77
FM AMEMBASSY SAN JOSE
TO SECSTATE WASHDC 7222
INFO AMEMBASSY GUATEMALA
AMEMBASSY TEGUCIGALPA

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LOAN. EXPRESSING THE LIMIT IN TERMS OF THE SIZE OF THE

LOAN, AS THE PRESENT DOCUMENTATION HAS DONE, LEAVES THE WAY OPEN TO USING THE U.S. GUARANTEED FUNDS TO MAKE PARTIAL LOANS ON HIGH-INCOME TYPE HOUSING.

7. A DEFINITIVE STATEMENT ON FOREIGN EXCHANGE RISK- THE QUESTION OF WHO WOULD BEAR THE BURDEN OF MEETING INCREASED PAYMENTS IN COLONES, IF THE COLON WERE DEVALUED, IS NOT DEFINED. IT SHOULD BE SPECIFICALLY STATED WHETHER THE HOME OWNERS WOULD HAVE THEIR MORTGAGE PAYMENTS INCREASED BECAUSE OF A DEVALUATION OR BECAUSE OF ANY OTHER CHANGE THAT MIGHT OCCUR SUBSEQUENT TO THEIR SIGNING A MORTGAGE STATEMENT.

8. AN AMPLIFICATION OF THE FEE SCHEDULE - THIS SHOULD INCLUDE THE RATE OF INTEREST THAT WILL BE CHARGED TO HOME BUYERS BY THE BANCO NACIONAL, AND THE RATE OF INTEREST AND ALL FEES THAT WILL BE CHARGED TO BUILDERS FOR THE RELATED CONSTRUCTION LOANS. WE WOULD ALSO APPRECIATE A FULLER EXPLANATION OF THE ASSERTION IN THE LATEST PROJECT DOCUMENTATION THAT A FEE OF 11 PERCENT OF THE TOTAL MORTGAGE VALUE, WHICH WOULD BE PASSED ON THE HOME BUYER, IS A REASONABLE FEE. THE DOCUMENTATION ASSERTS THAT THE FEE IN THE U.S. WOULD BE EVEN HIGHER, BUT IT APPEARS TO UNCLASSIFIED

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COMPARE THE PROJECT FEES TO A WHOLE SERIES OF FEES THAT MIGHT BE CHARGED IN THE U.S. IN RELATION TO CONSTRUCTION AND MORTGAGE FINANCING, WHEREAS THE PROJECT IN COSTA RICA WOULD ONLY PROVIDE MORTGAGE FINANCING (CONSTRUCTION FINANCING WOULD BE OBTAINED SEPARATELY BY THE BUILDERS AND THEY WOULD PRESUMABLY PAY THE NORMAL FEES, WHICH DO NOT APPEAR TO BE INCLUDED IN THE 11 PERCENT FEE STRUCTURE IN THIS PROJECT). IN ORDER TO BE ABLE TO OFFER DEFINITIVE COMMENTS ON THIS PROJECT, THE EMBASSY NEEDS AND EVALUATION OF THE FEE STRUCTURE FROM GOVERNMENT HOUSING FINANCE EXPERTS IN HUD OR IN AID'S HOUSING OFFICE.

9. POLICY APPROVAL OF THE GOCR - ONCE ALL OF THE FOREGOING POINTS HAVE BEEN ADDRESSED SATISFACTORILY, THE EMBASSY'S CONSIDERATION OF THE PROJECT WOULD STILL DEPEND HEAVILY ON AN OFFICIAL OPINION FROM A HIGH LEVEL OF THE GOCR TO THE EFFECT THAT THE GOCR CONSIDERS THIS PROJECT TO BE ACCEPTABLE AND FAVORABLE TO THE NATIONAL INTEREST. THIS OPINION WOULD NECESSARILY INCLUDE A SPECIFIC APPROVAL OF THE SCHEDULE OF FEES. IN THE EMBASSY'S VIEW, SUCH AN OPINION WOULD BE VALID ONLY IF IT WERE ISSUED BY THE OFFICE OF THE PRESIDENCY. IN THIS CONNECTION, DEPT AND OPIC SHOULD BE AWARE THAT EMBASSY WAS TOLD RECENTLY BY A MEMBER OF THAT OFFICE THAT PRESI-

DENCY HAD REVIEWED PROJECT AND HAD CONCLUDED THAT IT IS NOT IN THE NATIONAL INTEREST.

10. THIS EMBASSY HAS NOW REVIEWED THIS PROJECT, OR VERSIONS OF IT, AT LEAST THREE TIMES. THE PATTERN ESTABLISHED IN THIS PROJECT REVIEW HAS BEEN FOR OPIC TO SEND THE PROJECT APPLICATION TO THE EMBASSY FOR COMMENT, THEN TO TRANSMIT THE EMBASSY'S COMMENTS OR QUESTIONS TO THE PROJECT SPONSORS, THEN TO TRANSMIT THE PROJECT SPONSORS' REPLIES, CLARIFICATIONS, OR A MODIFIED PROJECT APPLICATION BACK TO THE EMBASSY. THE EMBASSY UNCLASSIFIED

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HAS BEEN PLEASED TO COOPERATE IN THIS MATTER AND TO PROVIDE OUR BEST JUDGMENTS AND OPINIONS BASED ON THE INFORMATION SUBMITTED TO U.S. GIVEN THE ALREADY ENORMOUS INVESTMENT OF EMBASSY STAFF RESOURCES IN CONSIDERATION OF THE PROJECT, THE EMBASSY MUST NOW TAKE THE POSITION THAT PENDING A FORMAL STATEMENT OF THE OPIC POSITION ON THE PROJECT, AND A FORMAL OPIC POINT-BY-POINT REPLY TO THE QUESTION RAISED IN THIS MESSAGE AND PROVISION OF THE ADDITIONAL ITEMS OF INFORMATION IDENTIFIED IN THIS MESSAGE, THE EMBASSY CANNOT UNDERTAKE ANOTHER REVIEW OF THE PROJECT.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
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Disposition Comment:
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Disposition Event:
Disposition History: n/a
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Executive Order: N/A
Errors: N/A
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Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
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Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
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Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2654761
Secure: OPEN
Status: NATIVE
Subject: OPIC: POLITICAL RISK INSURANCE APPLICATION OF MORTON B. TURBOW (PRF INTERNATIONAL CORP.)
TAGS: EINV, EFIN, CS, US, OPIC, PRF INTERNATONAL CORP, (TURBOW, MORTON B)
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/95d1309b-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009